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IV 2323173

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

CASE NUMBER: **IV 2323173**

SUBJECTS: **Alexander Guerrero, Deputy Sheriff, #[redacted]**
[redacted] Custody Assistant, #[redacted]
[redacted] Sergeant, #[redacted]

UNIT: **Twin Towers Correctional Facility**

DATE/TIME: **June 29, 2011, 1945 hours**

LOCATION: **Twin Towers Correctional Facility, 450 Bauchet Street, Los Angeles, California, 90012**

ALLEGATIONS:

It is alleged, during the course of an internal criminal investigation involving former Deputy [redacted] (herein referred to as [redacted]), Subject Guerrero, Subject [redacted] and Subject [redacted] made false statements and wrote false reports related to a use of force incident.

SYNOPSIS:

On June 11, 2012, Internal Criminal Investigations Bureau (ICIB) conducted an investigation regarding previous use of force incidents involving [redacted] On October 10, 2012, ICIB reviewed a force incident that occurred on June 29, 2011, at 1945 hours **[Exhibit A]**. ICIB's file number is 912-00168-2003-441. The result of the investigation led to the criminal prosecution of [redacted].

IAB Note: **The force incident occurred within Twin Towers Correctional Facility (TTCF). The incident was documented under file #911-00578-5800-145 [Exhibit A, pages 63-82]. In this incident, Subject [redacted] and [redacted] used force against Inmate [redacted] (Witness [redacted]). Witness [redacted] was waist-chained and handcuffed. Subject [redacted] and [redacted] wrote reports on their involvement in the force. Subject Guerrero witnessed force, but did not write a report.**

On October 10, 2012, Subject [redacted] was interviewed by ICIB investigators regarding his involvement in the force incident that occurred on June 29, 2011. During the interview, Subject [redacted] admitted to falsifying his supplemental report related to the incident. Subject [redacted] wrote a supplemental report which indicated he observed Witness [redacted] attempt to kick [redacted] in the groin. Subject [redacted] told ICIB investigators he never observed Witness [redacted] attempt to kick [redacted] **[Refer to Subject [redacted] transcribed ICIB interview, pages 12-14; Subject [redacted]' transcribed IAB interview, pages 6-10; Exhibit A, page 7; Exhibit C, pages, 68-71]**.

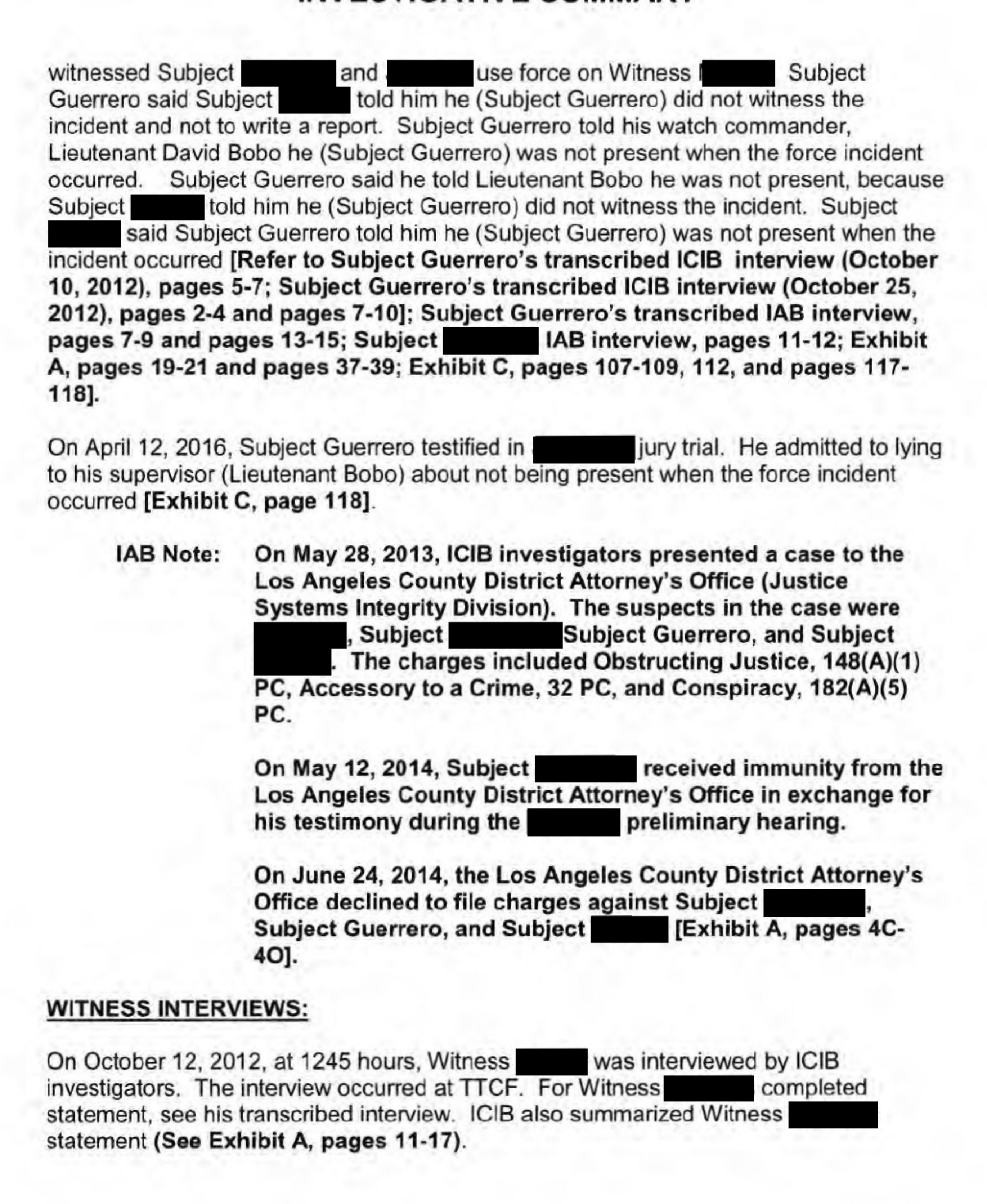
When the force incident occurred, Subject [redacted] observed [redacted] Strike Witness [redacted] in the face. Witness [redacted] was waist-chained and handcuffed. Witness [redacted] fell to the floor after being hit. [redacted] got on top of Witness [redacted] and punched him two-five additional times in the face **[Refer to Subject [redacted] transcribed ICIB interview, pages 19-20, Subject [redacted] transcribed IAB interview, pages 4 and 10-11; Exhibit A, page 8; Exhibit B, pages 57-59; Exhibit C, pages 68-69]**.

Subject [redacted] indicated in his supplemental report, he observed [redacted] strike Witness [redacted] once in the face. Witness [redacted] fell to the ground **[Exhibit A, page 75]**. During the initial portion of Subject [redacted]' ICIB interview, Subject [redacted] said Witness [redacted] was punched once in the face. Later, in the same interview, Subject [redacted] told ICIB investigators he observed [redacted] strike Witness [redacted] two-four additional times in the face, while Witness [redacted] was on the ground. Subject [redacted] said he was told by his immediate supervisor (Subject [redacted]) not to mention he (Subject [redacted]) observed [redacted] strike Witness [redacted] while Witness [redacted] was on the ground **[Refer to Subject [redacted]' transcribed ICIB interview, pages 6-8, 14, 18,and page 20; Subject [redacted]' transcribed IAB interview, pages 13-14; Exhibit B, pages 57-59]**.

On May 12, 2014, Subject [redacted] testified in [redacted] preliminary hearing. During his testimony in the preliminary hearing, Subject [redacted] admitted to falsifying his supplemental report **[Exhibit B, page 62]**.

On April 12, 2016, Subject [redacted] testified in [redacted] jury trial. During the jury trail, Subject [redacted] again admitted to falsifying his supplemental report **[Exhibit C, pages 70-71]**.

On October 10, 2012, at 1410 hours, investigators from ICIB interviewed Subject Guerrero. Subject Guerrero told ICIB investigators he was a witness to the force incident that occurred on June 29, 2011, but he did not write a report. When the incident occurred, Subject Guerrero told Subject [redacted] he (Subject Guerrero)



witnessed Subject [redacted] and [redacted] use force on Witness [redacted] Subject Guerrero said Subject [redacted] told him he (Subject Guerrero) did not witness the incident and not to write a report. Subject Guerrero told his watch commander, Lieutenant David Bobo he (Subject Guerrero) was not present when the force incident occurred. Subject Guerrero said he told Lieutenant Bobo he was not present, because Subject [redacted] told him he (Subject Guerrero) did not witness the incident. Subject [redacted] said Subject Guerrero told him he (Subject Guerrero) was not present when the incident occurred **[Refer to Subject Guerrero's transcribed ICIB interview (October 10, 2012), pages 5-7; Subject Guerrero's transcribed ICIB interview (October 25, 2012), pages 2-4 and pages 7-10]; Subject Guerrero's transcribed IAB interview, pages 7-9 and pages 13-15; Subject [redacted] IAB interview, pages 11-12; Exhibit A, pages 19-21 and pages 37-39; Exhibit C, pages 107-109, 112, and pages 117-118].**

On April 12, 2016, Subject Guerrero testified in [redacted] jury trial. He admitted to lying to his supervisor (Lieutenant Bobo) about not being present when the force incident occurred **[Exhibit C, page 118]**.

IAB Note: On May 28, 2013, ICIB investigators presented a case to the Los Angeles County District Attorney's Office (Justice Systems Integrity Division). The suspects in the case were [redacted], Subject [redacted] Subject Guerrero, and Subject [redacted]. The charges included Obstructing Justice, 148(A)(1) PC, Accessory to a Crime, 32 PC, and Conspiracy, 182(A)(5) PC.

On May 12, 2014, Subject [redacted] received immunity from the Los Angeles County District Attorney's Office in exchange for his testimony during the [redacted] preliminary hearing.

On June 24, 2014, the Los Angeles County District Attorney's Office declined to file charges against Subject [redacted], Subject Guerrero, and Subject [redacted] [Exhibit A, pages 4C-4O].

<u>WITNESS INTERVIEWS:</u>

On October 12, 2012, at 1245 hours, Witness [redacted] was interviewed by ICIB investigators. The interview occurred at TTCF. For Witness [redacted] completed statement, see his transcribed interview. ICIB also summarized Witness [redacted] statement **(See Exhibit A, pages 11-17)**.

Witness [redacted] said on June 29, 2011, he was sitting on the floor eating within the TTCF (Tower One Transfer Center). Witness [redacted] was waist-chained with one wrist handcuffed to each side of his body. Subject Guerrero came from the booth (Tower one Transfer Center) and approached Witness [redacted] Subject Guerrero told Witness [redacted] to get off the floor and sit on the bench. Witness [redacted] complied. [redacted] later approached Witness [redacted] and told him to stand up. As Witness [redacted] was attempting to stand, [redacted] punched him in the right cheek. Witness [redacted] fell off the bench and landed on the floor. Witness [redacted] said [redacted] struck him in the face approximately four additional times while he (Witness [redacted] was on the ground. Witness [redacted] said Subject Guerrero watched as he (Witness [redacted]) was being struck by [redacted] **[Refer to Witness [redacted] transcribed ICIB interview, pages 2-4, 6, and page 13]**.

IAB Note: **On April 12, 2016, Witness [redacted] testified in [redacted] jury trial [Exhibit C, pages 2-56].**

Witness [redacted] Witness [redacted] is serving his sentence at the California Medical Facility in Vacaville, California.

On March 16, 2017, at 1553 hours, IAB investigators attempted to interview Witness [redacted] telephonically. Witness [redacted] declined to participate in an interview.

SUBJECT INTERVIEWS:

Subject [redacted]

On October 10, 2012, at 1130 hours, Subject [redacted] was interviewed by ICIB investigators. The interview occurred at TTCF. ICIB investigators summarized their interview. **See Exhibit A, pages 6-9**. For Subject [redacted]' complete statement, see his transcribed ICIB interview

On March 21, 2017, at 1025 hours, Subject [redacted] was interviewed by IAB investigators. The interview occurred at IAB. For Subject [redacted]' complete statement, see his transcribed IAB interview.

Following is a summary of Subject [redacted]' IAB interview:

On June 29, 2011, at 1945 hours, Subject [redacted] was involved in a force incident with [redacted] and Witness [redacted]. On the same date, Subject [redacted] wrote a supplemental report regarding the incident **[Exhibit A, page 75]**.

Subject [redacted] indicated in his report he observed Witness [redacted] attempt to kick [redacted] in the groin. During his interview with ICIB investigators on October 10, 2012, Subject [redacted] initially told ICIB investigators he observed Witness [redacted] attempt to kick [redacted]. During the same ICIB interview, Subject [redacted] recanted his statement. Subject [redacted] told ICIB investigators he did not observe Witness [redacted] attempt to kick [redacted]. Subject [redacted] said the report he wrote on June 29, 2011, regarding the force incident was not factual. Subject [redacted] stated in the beginning of his ICIB interview, he was not truthful with ICIB investigators when he was asked if his report was accurate **[Refer to Subject [redacted] transcribed IAB interview, pages 6-10]**.

Subject [redacted] also documented in his supplemental report he observed [redacted] strike Witness [redacted] once in the face. Subject [redacted] said his report was not factual, because he observed [redacted] strike Witness [redacted] two-five additional times in the face, while Witness [redacted] was on the ground. Subject [redacted] reported what he observed to his immediate supervisor, Subject [redacted]. Subject [redacted] stated Subject [redacted] told him not to document he (Subject [redacted]) observed Witness [redacted] being struck while on the ground. Subject [redacted] did not document everything he witnessed, because he was following Subject [redacted] order **[Refer to Subject [redacted] transcribed IAB interview, pages 10-14]**.

IAB Note: **Subject [redacted] told ICIB investigators [redacted] struck Witness [redacted] once in the face while he (Witness [redacted]) was standing. Subject [redacted] also told ICIB investigators he did not observe Witness [redacted] being struck while he (Witness [redacted]) was on the ground [Refer to Subject [redacted] transcribed ICIB interview pages 7-8 and page 18]**.

In Subject [redacted] ICIB interview on October 10, 2012, Subject [redacted] stated Subject Guerrero was also present when the force incident occurred. Subject [redacted] said he did not observe Subject Guerrero's actions during the incident [Refer to Subject [redacted] transcribed ICIB interview, pages 15-16].

On May 12, 2014, Subject [redacted] testified in [redacted] preliminary hearing **[Exhibit B]**. During Subject [redacted] testimony, he admitted to writing a false police report **[Exhibit B, page 62]**.

On April 12, 2016, Subject [redacted] testified in [redacted] jury trail **[Exhibit C]**. During Subject [redacted] testimony, he admitted to writing an untruthful and inaccurate report **[Exhibit C, pages 70-71]**.

Subject Alexander Guerrero

On October 10, 2012, at 1412 hours, Subject Guerrero was interviewed by ICIB investigators. The interview occurred at TTCF. ICIB summarized Subject Guerrero's statement **[Exhibit A, pages 19-22]**. For Subject Guerrero's complete statement, see his transcribed ICIB interview.

On October 25, 2012, at 1031 hours, ICIB investigators conducted an additional interview with Subject Guerrero. The interview occurred at Sheriff's Headquarters Bureau. ICIB summarized Subject Guerrero's statement **[Exhibit A, pages 36-45]**. For Subject Guerrero's complete statement, see his transcribed ICIB interview.

On March 7, 2017, at 1045 hours, Subject Guerrero was interviewed by IAB investigators. The interview occurred at IAB. For Subject Guerrero's complete statement, see his transcribed IAB interview.

Following is a summary of Subject Guerrero's IAB interview:

Subject Guerrero said on June 29, 2011, at approximately 1945 hours, he was working at the Tower One Transfer Center within TTCF. Subject Guerrero walked down the hallway, near the Tower One Clinic, toward the restroom. Prior to arriving at the restroom, he heard a slapping sound, as if a body hit the floor. Subject Guerrero turned around and observed [redacted]and Subject [redacted] on top of Witness [redacted] Subject Guerrero walked at a fast pace toward [redacted], Subject [redacted] and Witness [redacted] Witness [redacted] was on the floor waist-chained and handcuffed. [redacted] controlled Witness [redacted] torso by using his ([redacted] body weight. Subject [redacted] used his (Subject [redacted] body weight to hold Witness [redacted]egs. Subject Guerrero observed [redacted] raise his arm, as if he was about to strike Witness [redacted] Subject Guerrero did not witness [redacted] actually strike Witness [redacted] Subject Guerrero said he gave a different version of the incident to ICIB investigators, because he was not prepared for their interview, and was dealing with personal problems **[Refer to Subject Guerrero's transcribed IAB interview, pages 3-4].**

IAB Note: **On October 10, 2012, Subject Guerrero told ICIB investigators when he heard the slapping sound, he was on a computer inside the control booth (Tower One Transfer Center) with Subject [redacted]. Subject Guerrero said he and Subject [redacted] left the control booth together to assist [redacted] Subject Guerrero also told ICIB investigators, he observed [redacted] strike Witness [redacted]once in the face while Witness [redacted] was on the ground [Refer to Subject Guerrero's transcribed ICIB interview, pages 5-6].**

On October 25, 2012, Subject Guerrero told ICIB investigators he was sitting inside the Tower One Transfer Center with Subject [redacted]. Subject Guerrero heard a slapping sound and looked out of the window. He observed [redacted] on the ground with Witness [redacted] Subjects Guerrero and [redacted] went to assist [redacted]. Subject Guerrero said he observed [redacted] raise is arm, as if he was about to strike Witness [redacted] Subject Guerrero did not observe [redacted] strike Witness [redacted], because Subject Guerrero's view was blocked by Subject [redacted] Refer to Subject Guerrero's transcribed ICIB interview, pages 2-3].

Subject Guerrero said while [redacted] and Subject [redacted] were restraining Witness [redacted] on the ground, Witness [redacted] lifted his head violently, as if he was attempting to head-butt [redacted]. Witness [redacted] subsequently became un-resistive **[Refer to Subject Guerrero's transcribed IAB interview, pages 5, 7-8, and page 15].**

Subject [redacted] responded to their location. Subject Guerrero told Subject [redacted] he (Subject Guerrero) was not directly involved in the force. Subject Guerrero advised Subject [redacted] he (Subject Guerrero) observed [redacted] and Subject [redacted] on top of Witness [redacted]. Subject Guerrero also advised Subject [redacted] he (Subject Guerrero) did not observe Witness [redacted] being struck, but he observed control holds used on Witness [redacted]. Subject Guerrero did not write a report on the force he witnessed, because Subject [redacted] told him to "stay out and let [redacted] and [redacted] handle the paper." Subject Guerrero said he was aware of the Department's force policy regarding reporting force **[Refer to Subject Guerrero's transcribed IAB interview, pages 6-9 and pages 19-20].**

Approximately twenty minutes after the force incident, Subject Guerrero was approached by Lieutenant Bobo (watch commander). Subject Guerrero told Lieutenant Bobo he (Subject Guerrero) was not involved in the force incident. Subject Guerrero did not tell Lieutenant Bobo what he observed, because Subject Guerrero acted on Subject [redacted] instruction, by saying he (Subject Guerrero) was not involved **[Refer to Subject Guerrero's transcribed IAB interview, pages 13-14].**

IAB Note: During Subject Guerrero's ICIB interview on October 10, 2012, he stated he was approached by Lieutenant Bobo. Lieutenant Bobo asked Subject Guerrero if he (Subject Guerrero) witnessed the incident. Subject Guerrero told Lieutenant Bobo he (Subject Guerrero) was not present when the incident occurred. Subject Guerrero said he told Lieutenant Bobo he

was not present, because he did not agree with the force and wanted to remove himself from the incident [Refer to Subject Guerrero's ICIB interview, pages 7-9].

On June 29, 2011, Lieutenant Bobo conducted a force interview Witness [redacted] [Exhibit D].

On [redacted] Lieutenant Bobo retired from the Los Angeles County Sheriff's Department. IAB investigators attempted to contact Lieutenant Bobo. Voice messages were left on his answering machine. On March 17, 2017, a certified letter was sent to his residence. IAB investigators were not contacted by Lieutenant Bobo.

On October 10, 2012, Subject Guerrero was relieved of duty. On the day he was relieved, he received a text message from Subject [redacted] asking him (Subject Guerrero) to call him. Subject Guerrero called Subject [redacted]. Subject Guerrero said their conversation was casual, as Subject [redacted] checked to see if Subject Guerrero was ok. Subject Guerrero advised Subject [redacted] of the force incident which caused him (Subject Guerrero) to be relieved of duty. Subject Guerrero said they did not discuss his interview with ICIB **[Refer to Subject Guerrero's transcribed IAB interview, pages 20-23].**

IAB Note: **Subject [redacted] transferred from TTCF to West Hollywood Sheriff's Station on [redacted]**

Subject Guerrero did not retain Subject [redacted] text message [Refer to Subject Guerrero's ICIB interview (October 25, 2012), page 17].

Subject [redacted]

On October 17, 2012, at 1433 hours, Subject [redacted] was interviewed by ICIB investigators. The interview occurred at West Hollywood Sheriff's Station. ICIB summarized their interview with Subject [redacted] **[Exhibit A, pages 31-33]**. For Subject [redacted] statement, see his transcribed ICIB interview.

On October 31, 2012, at 1200 hours, ICIB investigators conducted an additional interview with Subject [redacted] The interview occurred at West Hollywood Sheriff's Station. ICIB summarized their interview with Subject [redacted] **[Exhibit A, pages 33-34]**. For Subject [redacted] statement, see his transcribed ICIB interview.

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

On March 22, 2017, at 1004 hours, Subject [redacted] was interviewed by IAB investigators. The interview occurred at IAB. For Subject [redacted] complete statement, see his transcribed IAB interview.

Following is a summary of Subject [redacted] IAB interview:

On June 29, 2011, at 1945 hours, Subject [redacted] said he was a supervisor at TTCF. He was notified by Subject [redacted] of a force incident. The force incident involved [redacted], Subject [redacted] and Witness [redacted] Subject [redacted] responded to the Tower One Transfer Center. Upon arriving, Subject [redacted] contacted Witness [redacted]. Witness [redacted] told Subject [redacted] he was struck by [redacted] Subject [redacted] observed Witness [redacted] lying on the ground waist-chained and handcuffed. Witness [redacted] had a cut under his right eye. Subject [redacted] immediately notified Lieutenant Bobo regarding Witness [redacted] injury **[Refer to Subject [redacted] transcribed IAB interview, pages 4-6]**.

Subject [redacted] contacted [redacted] regarding the force incident. [redacted] stated Witness [redacted] sat on a bench within the Tower One Transfer Center. [redacted] approached Witness [redacted] and told him to stand. When Witness [redacted] stood, he attempted to kick [redacted] in the groin. [redacted] told Subject [redacted] he ([redacted]) struck Witness [redacted] once in the face **[Refer to Subject [redacted] transcribed IAB interview, page 7]**.

> **IAB Note: [redacted] report was consistent with the statement given to Subject [redacted] [Exhibit A, pages 63-65]. Subject [redacted] approved [redacted] report.**

Subject [redacted] contacted Subject [redacted] regarding the force incident. Subject [redacted] told Subject [redacted] he (Subject [redacted]) was working the Tower One booth, (Transfer Center). Subject [redacted] observed Witness [redacted] stand up and attempt to kick [redacted] in the groin. [redacted] punched Witness [redacted] once in the face, causing Witness [redacted] to fall to the floor. [redacted] got on top of Witness [redacted] to hold him down, as Witness [redacted] was kicking his feet. Subject [redacted] told Subject [redacted] he assisted by holding Witness [redacted] legs down, while Deputy [redacted] applied the hobble restraint to Witness [redacted] feet **[Refer to Subject [redacted] transcribed IAB interview, page 7]**.

Subject [redacted] statement was consistent with the statement [redacted] gave to Subject [redacted]. Subject [redacted] said Subject [redacted] never told him [redacted] struck Witness [redacted] two-five additional times in the face while Witness [redacted] was on the ground. Subject [redacted] said he never told Subject [redacted] not to include

Witness [redacted] was struck two-five additional times in his (Subject [redacted]) report. Subject [redacted] never advised Subject [redacted] about observing Witness [redacted] being struck while on the ground. Subject [redacted] stated he would have never instructed Subject [redacted] not to put what he (Subject [redacted]) observed in his (Subject [redacted]) supplemental report **[Refer to Subject [redacted] transcribed IAB interview, pages 8-9]**.

Subject [redacted] emailed his report to Subject [redacted] for approval. Subject [redacted] report needed corrections (grammatical errors). Subject [redacted] made corrections to his report, while using Subject [redacted] computer. Subject [redacted] approved Subject [redacted] supplemental report **[Refer to Subject [redacted] transcribed IAB interview, pages 10-11]**.

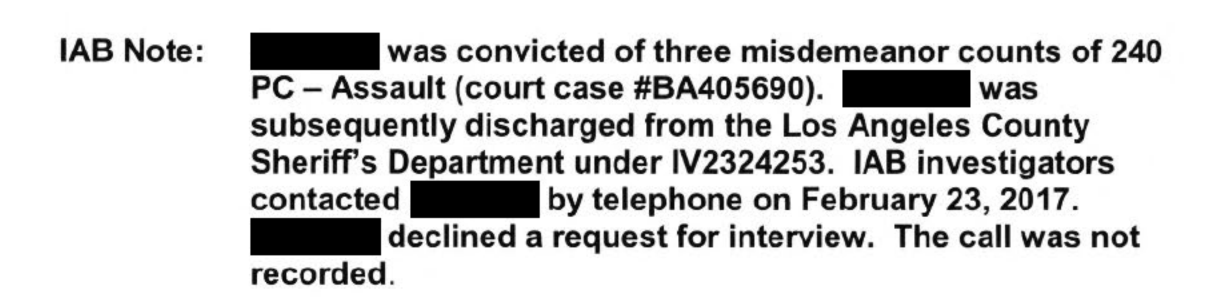
Subject [redacted] contacted Subject Guerrero regarding the force incident. Subject Guerrero told Subject [redacted] he (Subject Guerrero) did not witness force, because he (Subject Guerrero) was on another floor and was not present when the force incident occurred. Subject [redacted] contacted Subject Guerrero a second time, because Witness [redacted] said Subject Guerrero was present when the incident occurred **[Exhibit D]**. Subject Guerrero denied being present when the incident occurred **[Refer to Subject [redacted] transcribed IAB interview, pages 11-13]**.

Subject [redacted] said he believed the statements given to him by [redacted], Subject [redacted] and Subject Guerrero. Subject [redacted] had no reason to believe they gave untruthful statements. Subject [redacted] said he did not orchestrate a cover-up regarding the force incident **[Refer to Subject [redacted] transcribed IAB interview, pages 17-19]**.

IAB Note: Subject [redacted] did not testify in any of [redacted] court proceedings.

October 10, 2012, an employee (Deputy [redacted] working at TTCF informed Subject [redacted] that Subject Guerrero was relieved of duty. Subject [redacted] sent text messages to Subject Guerrero and Subject [redacted] The purpose of his text messages was to check on their wellbeing, because they were his former employees. Subject [redacted] contacted Subject Guerrero via telephone. Subject Guerrero told Subject [redacted] he (Subject Guerrero) was relieved of duty, because he (Subject Guerrero) lied during a force incident. Subject [redacted] was advised he handled the force incident. Subject [redacted] did not recall the force incident during the phone conversation. Subject [redacted] and Subject Guerrero began conversing about issues in their personal lives. Subject [redacted] said he never called Subject [redacted] or [redacted] during the ICIB investigation **[Refer to Subject [redacted] transcribed IAB interview, pages 14-15, 17, and page 20]**.

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY



IAB Note: **[redacted] was convicted of three misdemeanor counts of 240 PC – Assault (court case #BA405690). [redacted] was subsequently discharged from the Los Angeles County Sheriff's Department under IV2324253. IAB investigators contacted [redacted] by telephone on February 23, 2017. [redacted] declined a request for interview. The call was not recorded.**



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE



JIM MCDONNELL, SHERIFF

April 19, 2017

Deputy Alexander Guerrero, #[redacted]
[redacted]

Dear Deputy Guerrero:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business May 10, 2017.

An investigation under IAB File Number IV2323173, conducted by Internal Affairs Bureau, coupled with your own statements, have established the following:

1. That in violation of the Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations and Order (as it pertains to 3-10/100.00, Use of Force Reporting and Review Procedures); and/or 3-01/040.70, False Statements; and/or 3-01/050.10, Performance to Standards, on or about June 29, 2011, while on-duty, you provided false information to a supervisor, and in a use of force/supplemental report, and/or failed to perform to standards established for your position, as evidenced by but not limited to:

   a. making false statements to Sergeant [redacted] by stating that you were not present during a use of force incident; and/or,

b. making false statements to Sergeant [redacted] by stating that you had been escorting inmates back to their assigned housing locations during a use of force incident, and/or words to that effect; and/or,

c. making false statements to the watch commander, former Lieutenant David Bobo, by stating, "I wasn't there;" when asked if you witnessed a use of force incident; and/or,

d. discussing the incident with former Deputy [redacted] and Custody Assistant [redacted] and collectively agreeing that you would remove yourself from the incident; and/or,

e. failing to verbally report witnessed force by former Deputy [redacted] and Custody Assistant [redacted] against Inmate [redacted] and/or,

f. failing to properly report witnessed force by former Deputy [redacted] and Custody Assistant [redacted] against Inmate [redacted] in a supplementary report.

2. That in violation of the Manual of Policy and Procedures Sections 3-01/040.70, False Statements; and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about October 10, 2012, and October 25, 2012, you omitted information, provided false or misleading statements during an Internal Criminal Investigation and/or obstructed an on-going criminal investigation, as evidenced by but not limited to:

a. making false statements, on October 10, 2012, that you were in the transfer center booth when you heard a noise, looked out the booth window, and witnessed former Deputy [redacted] "taking Inmate [redacted] to the ground," and/or words to that effect; and/or,

b. providing conflicting statements during the ICIB interviews regarding your observations of Deputy [redacted] use of force on Inmate [redacted] and,

c. making false statements, on October 25, 2012, that you reported the force you witnessed to Sergeant [redacted] who said "you weren't there. You didn't see anything, you're out of this;" and/or words to that effect.

3. That in violation of the Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/000.10, Professional Conduct, on or about April 12, 2016, you brought discredit and embarrassment upon yourself and/or the Los Angeles County Sheriff's Department when you appeared in Los Angeles Superior Court and testified to lying to a supervisor (Lieutenant Bobo) about not being present during the use of force incident, dated June 29, 2011.

4. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations, on or about March 7, 2017, you made false statements during an Internal Affairs Investigation, as evidenced by but not limited to:

a. stating "Yes Sir," when you were asked " did anyone tell you not to write a supplemental report on your actions of what you witnessed;" and/or,

b. stating, "Sergeant [redacted]" when asked who instructed you to not document a witnessed force incident; and/or,

c. stating Sergeant [redacted] said "stay out and let [redacted] and [redacted] handle the paper," when witnessed force was reported to Sergeant [redacted]

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet, which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Stephen B. Johnson, on May 8, 2017, at 1300 hours, in his

office, which is located at 450 Bauchet Street, Room E826, Los Angeles, California 90012. If you are unable to appear at the scheduled time and wish to schedule some other time prior May 8, 2017, for your oral response, please call Chief Johnson's secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Johnson's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Johnson's office no later than May 10, 2017.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Josie S. Woolum, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

JSW:SBJ:ll

cc: Advocacy Unit
Employee Relations Unit
Stephen B. Johnson, Chief, Custody Services Division
Internal Affairs Bureau
(File #IV2323173)

1923-COLA 4512AG



CIVIL SERVICE COMMISSION
COUNTY OF LOS ANGELES

May 7, 2019

FINAL DECISION

Subject of Hearing: *Petition of* ***ALEXANDER GUERRERO*** *for a hearing on his* ***discharge****, effective May 24, 2017, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 17-135.**

On April 2, 2019, the Commission's proposed decision in this matter was sent out for objections. The objections were to be filed with the Commission by April 22, 2019 . No objections were timely filed.

Therefore, the following is the Commission's final decision in the matter as of 5:01 p.m., April 22, 2019:

DEPARTMENT SUSTAINED.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure, as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Steve Cheng
Interim Executive Director

c: Alexander Guerrero
Charles Goldwasser
Avi Burkwitz

RECEIVED

LOS ANGELES COUNTY CIVIL SERVICE COMMISSION

LAW OFFICES OF JERRY ELLNER

COUNTY OF LOS ANGELES

CIVIL SERVICE COMMISSION

IN THE MATTER OF THE APPEAL FROM DISCHARGE OF ALEXANDER GUERRERO

[redacted]

APPELLANT,

vs.

COUNTY OF LOS ANGELES, SHERIFF'S DEPARTMENT.

Respondent

Case No: 17-135, IAB # 2323173

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

I. INTRODUCTION

On April 19, 2017, Alexander Guerrero, (Appellant) was personally served with a Letter of Intent from the Sheriff's Department informing him of its intention to terminate his employment as a deputy sheriff with the department effective the close of business May 10, 2017. The Appellant was advised of his right to respond, either orally or in writing to the alleged charges and a meeting with Chief Stephen B. Johnson was scheduled for May 8, 2017, at 1300 hours. Deputy Guerrero exercised his right to respond at his *Skelly* hearing in order to present evidence against or, in mitigation of the discharge. However, after consideration of the Appellant's responses it was determined that the discipline was appropriate and the Notice of Discharge issued on May 26, 2017, with an effective date of May 24, 2017. Delivery of the Notice was by USPS Certified Mail and receipt was acknowledged with Mr. Guerrero's signature on June 1, 2017.

Mr. Guerrero filed a timely appeal with the Civil Service Commission, (Commission) pursuant to Civil Service Rules 4.02, 4.05 and 18.02 and the matter came up for consideration by the commission at its meeting of August 9, 2017. The commission determined that in light of the Petitioner's denial of the allegations, the grant of a hearing on his appeal would be appropriate and the grant was not opposed by the department.

The hearing commenced on September 4, 2018, at 9:00 a.m. and an additional day of hearing was held on

September 5, 2018. Mr. Guerrero was represented by Charles Goldwasser of the Law Offices of Charles Goldwasser and the department was represented by Avi Burkwitz, of Peterson Bradford Burkwitz. Mr. Guerrero was present at both hearings. Post-hearing briefs were received by your Hearing Officer on December 14, 2018, and all of the evidence, both testimonial and documentary, was admitted. The matter is now submitted for consideration by the Board.

2. ISSUES

The issues, as defined by the Commission for consideration by the Hearing Officer were as follows:

1. Are the allegations contained in the department's letter of May 26, 2017, true?

2. If any or all are true, is the discipline appropriate?

3. B ASIS OF ALLEGATIONS

The basis for the department's decision to discharge the Appellant are as follows:

That he violated the following sections of the County of Los Angeles Manual of Policy and Procedures:

1. Section 3-01/030.10- Obedience to Laws, Regulations and Order

2. Section 3-10/100.00- Use of Force Reporting and Review Procedures

3. Section 3-01/040.70- False Statements

4. Section 3-01/050.10- Performance to Standards

5. Section 3-01/030.05- General behavior

6. Section 3-01/040.75- Dishonesty

4. DEPARTMENT'S CONTENTIONS

The department contends that on or about October 10, 2012 and again on October 25, 2012, during the course of an official internal criminal investigation, the Appellant omitted information and provided false and/or misleading statements to the effect that on June 29, 2011, he denied observing a use of force incident between Deputy [redacted] and an inmate. In fact, he was in the transfer booth in Tower 1, when he heard a noise, looked out of the booth window and witnessed a use of force incident involving Deputy [redacted]. [redacted] had punched inmate [redacted] who was waist-chained and defenseless and was taken down to the ground. After Guerrero conferred with deputies [redacted] and [redacted] the plan was for him to disassociate himself from the incident. When he did report the matter to his supervisor, Sergeant [redacted] he alleges that he was told by [redacted] you weren't there, you didn't

see anything, you're out of this." It was during the investigation that the Appellant made false statements concerning his witnessing the incident; thereby engaging in the obstruction of justice. He also admitted, while testifying in court, to having lied to his watch commander, Lieutenant Bobo. In so doing, the Appellant has brought discredit and embarrassment upon himself and the department. Compounding these violations, on or about March 7, 2017, the Appellant made false statements concerning these events during an Internal Affairs investigation.

5. APPELLANT'S CONTENTIONS

The Appellant denies that there are sufficient grounds for the discipline imposed by the department as they are unsupported by the facts, circumstances and allegations and, in any event, the penalty is excessive. At the time of the incident, Mr. Guerrero was in a very bad emotional state; his wife having left him. Although he is frank to admit that he did witness [redacted] and [redacted] "handle" the inmate, Guerrero did not want to be involved because of his personal issues and when he reported the incident to Sergeant [redacted] told him that he needn't be involved and that he "wasn't there" and "don't write a report." The Appellant, having experienced the emotional trauma associated with his marriage, took the advice of [redacted] and, because of his mistake in judgment, he was drawn further into this web of circumstances that was not of his doing.

Additional defenses include allegations that the department violated Government Code Section 3300 as to administrative statute limitations and violations of its policy of progressive disciple.

. BACKGROUND OF THE CASE

The information contained in the following summary is derived from the department's investigation

A use of force incident involving the Appellant that occurred on June 29, 2011, in the Tower I Transfer Center was the subject of an internal affairs investigation on October 10, 2012. The investigation revealed that former Deputy [redacted] punched an inmate without cause multiple times while a custody assistant, [redacted], held the inmate's legs down. It was determined that Deputy Guerrero was present at the time and observed the incident and never authored a supplemental report of his observations as is required by policy.

During Guerrero's first interview on October 10th, he told investigators that he was in the transfer booth at the time of the incident when he heard a slap followed by someone hitting the ground. He denied actually witnessing the incident but investigators determined that he had been untruthful as he had, in fact, been present.

Following the incident, Guerrero discussed the matter with Deputy [redacted] and the custody assistant and

they all agreed that he would be kept out of it and that was the reason for him not preparing a supplemental report.

On October 25, 2012, Guerrero was interviewed again; at which time he stated that at the time he did inform his immediate supervisor, Sergeant [redacted] of the incident. However, he failed to mention this during his first interview. Guerrero said he told [redacted] that he was there and witnessed the incident but [redacted] told him "he did not" witness the incident and advised him not to write a report. [redacted] denied this during his own interview.

On March 7, 2017, Guerrero was again interviewed by Internal Affairs during which time he stated that he was walking toward the restroom at the time of the incident and when he observed what was happening, he placed his hands on the inmate's leg. He had not previously mentioned this.

Guerrero also admitted that he lied to Lieutenant Bobo when he said he was not present at the scene and he also admitted to removing himself from the incident and failing to write a report even though he was a witness.

7. EXHIBITS

All of the exhibits introduced by the department during the hearing were admitted into evidence over hearsay objection by the Appellant and are listed at the end of this report and incorporated herein by reference. There were no exhibits introduced by the Appellant.

8. TESTIMONY RECEIVED

From the Department:

Chief Stephen Johnson was called. He has been employed by the department for over forty years and his current assignment is chief of detectives. He was also the decision-maker in the instant matter. In his capacity as a chief he has made numerous decisions with regard to discharges resulting from employees making false statements and obstructing an investigation. In some of his previous assignments he has also served as an investigator for the Internal Affairs Bureau. With regard to these investigations, whether administrative or criminal, there is an obligation on the part of the witness to always tell the truth.

Sometime in 2017, the Guerrero investigation came to his attention and he was aware that the underlying incident had occurred in 2011. As the decision-maker, he reviewed all of the investigative materials and considered them from the standpoint of whether there had been a proper investigation, whether the allegations are correct and could they result in Guerrero's discharge. It was on April 18, 2017, that he made the final decision for the discharge of Guerrero and there was no possible consideration of any lesser penalty. In arriving at this decision, he consulted

the departmental penalty guidelines and, in the case of multiple false statements and the obstruction of an investigation, because of the severity of the infractions, the discharge was the only appropriate discipline.

He had serious concerns due to the inconsistencies in the statements given by Guerrero during his investigative interviews as well as during his court testimony where he admitted to having lied to his lieutenant about his observations on June 29, 2011. His credibility was called into question to the extent that his testimony could never be used in a court proceeding. He also brought into question the credibility of other department witnesses and the credibility of the department itself.

On cross-examination, the chief agreed that when working in the Twin Towers it is important for the deputies to rely upon one another for their mutual safety and those working the same shift are a close-knit group. Furthermore, there is no special class that instructs in matters of decision-making and decisions are based on a series of experiences.

On re-direct, the witness addressed the issue of progressive discipline and its inapplicability in cases where there is a conviction for a felony or in cases involving theft and dishonesty.

Anthony Easter, Lieutenant, testified to his service as an Internal Affairs Bureau investigator. He was involved in the administrative investigation of Guerrero's June 29, 2011, incident. He waited for the criminal investigation to be concluded before undertaking the administrative investigation and that caused the tolling of the statute of limitations. As part of his investigation he made use of the information gleaned from the criminal investigation including the transcripts of the interviews obtained by ICIB and he determined that there were statements that were in conflict with department policy. After completing his investigation, he prepared a report in which he concluded that Guerrero had made false statements after it was determined that he was present and observed the incident involving Deputy [redacted] on June 29, 2011, but never reported it. He also found that Guerrero had said that Sergeant [redacted] told him that he (Guerrero) did not witness the incident and not to write a report. [redacted] denied ever saying that. Guerrero also told his watch commander, Lieutenant Bobo that he was not present when the use of force incident took place and when he later testified in court he admitted to having lied to Bobo. His purported reason for lying to Lieutenant Bobo was due to the fact that Sergeant [redacted] told him to deny that he was there and to not write a report. After the witness completed his report, it went to case review and although he was present at that review, he did not make any recommendations with regard to discipline.

David Bobo was called by the department. Mr. Bobo has been retired for the past four years after having served for thirty years; most recently at the rank of lieutenant. He recalls having worked at the Twin Towers Correctional Facility with Deputy Guerrero and vaguely remembers a use of force incident involving Deputy [redacted] against an inmate named [redacted]. He remembers interviewing [redacted] and was told that Deputy Guerrero was present and had witnessed the incident. He was also told that by custody assistant [redacted] and that [redacted] instigated the assault by attempting to butt-head [redacted]. Based on the statements of [redacted] he concluded that it was "undetermined." He has no clear recollection of Guerrero telling him that he was not present at the scene but concedes that based upon the transcripts of the investigation, it appears that he was present.

The Department Rested:

From the Appellant:

Alexander Guerrero testified in his own behalf. He joined the department in May of 2008, after serving for six years with the Los Angeles County Police Department. In 2011, he was assigned to the Tower One Transfer Center which is a transfer hub for inmates coming and going to court.

On June 29, 2011, he had been working his usual assignment of housing new inmates as well as inmates returning from court. One of the inmates under his care was [redacted] a high-profile individual who was having a lot of interactions with the staff by creating disturbances and being disruptive. Custody Assistant [redacted] was also there and keeping count of the inmates as well as Deputy [redacted]. At some point that day he was in the hallway heading towards the clinic when he heard a large smacking sound followed by the sound of a body hitting the floor. He saw Jackson and [redacted] on top of [redacted] and then observed that [redacted] had been subdued. He observed [redacted] raise his hand as if to strike [redacted] but has no recollection of actually seeing him make contact with [redacted]. Sergeant [redacted] showed up and he told him what he had seen. [redacted] told [redacted] that as the primary report writer he was to prepare a report and [redacted] was to prepare a supplemental report. However, Guerrero was to "stay out of it and not write a report." He had no further conversation about the incident with [redacted] until a year or two later on the same night that he was relieved of duty. [redacted] had called him and asked him some non-specific questions about what he had told investigators.

He also spoke with Lieutenant Bobo that evening and was asked if he had been involved in the incident and he told him that he was not because this was what [redacted] had told him to say. He was contacted by members of the

Internal Criminal Investigation Bureau in October of 2012, and he told them that he had responded to the incident from the booth in the transfer center. He also told them that he had observed [redacted] strike [redacted], although that was not correct. During his interview he had made mistakes in describing the details and should have taken more time to get the facts straight before going into the interview. He was relieved of duty at that time. He had a second interview with ICIB two weeks later after which he was called by [redacted], who by this time had also been relieved of duty and [redacted] wanted to know the details of his first interview. During his second interview, he contradicted himself and told the investigators that he did not see [redacted] strike [redacted] but only saw him raise his arm. According to Guerrero, this was the correct version of what occurred.

While all of this was taking place, he discovered that his wife was having an affair and this was affecting him emotionally and also affecting his job performance. He was not focusing on his work and he just wanted to get done with the interviews. He also testified in court in May of 2017, during which time he changed the details of the incident because he had a clearer recollection by then of what had occurred.

On cross-examination, the witness conceded that if he had been given an illegal or out of policy order by a superior, he would be obliged to report it. But, when he was told by his supervisor to not write a report of the June 29, 2011, incident he placed his trust in his supervisor but now realizes that it was a mistake. He also is aware of the fact that Sergeant [redacted] strongly denies that he ever told him not to write a report. When he was interviewed by ICIB in October of 2012, he didn't mention it at the time although he conceded that it was a matter of great importance and he cannot explain his reason for not doing so except for the fact that he was "dealing with a lot personally."

Mr. Guerrero was shown a copy of a document identified herein as [redacted] stamp page 468 of department's exhibit 22. The witness identified the document as an inmate injury report which he prepared and signed on June 29, 2011. The document was approved by Sergeant [redacted]. The witness stated that he was instructed to prepare the report by [redacted] but did not think it was strange that Sergeant [redacted] instructed him to prepare the inmate injury report after having previously told him to "stay out of it." He also concedes that he lied to Lieutenant Bobo when he denied that he was present at the scene of the incident.

[redacted] was called by the Appellant. Mr. [redacted] is the president of a Catholic High School in Los Angeles and is a very good friend of Mr. Guerrero and his family. Having known Mr. Guerrero for the past six-

and one-half years he believes him to be a very genuine person of good character whom he would trust with his own children.

[redacted] testified that he is currently a retired lieutenant who served with the [redacted] Police Department. He has come to know Alex Guerrero through their mutual workouts at the gym over a period of from ten to fifteen years. They would often talk about law enforcement matters and he was hoping to get him hired on to his department. After his retirement, he stopped going to the gym and there was no further contact between them. Having known Alex Guerrero as long as he has, he believes him to be a person who is honest and truthful and knowing of the circumstances of his discharge he is of the belief that Alex is redeemable.

The Appellant Rested:

9. CLOSING ARGUMENT

By the Department:

Mr. Guerrero wanted to disassociate himself from the incident of June 29, 2011, and he was successful in doing so for about a year until the department began looking at Jackson a little more closely. Guerrero's story started to unravel---culminating in his admission in court during Jackson's trial, that he had lied to Lieutenant Bobo. In so doing he ruined his own credibility and tarnished the reputation of the department. In the future, Guerrero's employment with the department is problematic insofar as the District Attorney's office might have to exclude him as a witness or possibly forgo filing charges because of concerns about his testimony being called into question. The damage done by his public admission of his dishonesty cannot be undone or mitigated by any amount of training, suspension or any discipline short of a full separation from the department. For these reasons, the department requests that the discharge of Mr. Guerrero be sustained.

By the Appellant:

The Appellant presented himself at his hearing ready to accept full responsibility for his conduct. Since the incident he has become a better person, more mature and spiritually advanced. The discharge is excessive and, given that he has demonstrated that he has grown and is cognizant of his limitations, he should be given another chance. The disciplinary guidelines provide for it and this is an appropriate case for it.

Notice should also be taken of a non-compliance with statute of limitations requirements as set forth in Government Code §3304(d) (1) which mandates completion of the investigation and filing of charges within one

year of the time when the alleged misconduct is brought to the attention of the agency. While it is true that the statute is tolled by a concurrent criminal action, the allegation of misconduct that is the basis of this administrative action was the subject of another and different investigation.

It is requested that Mr. Guerrero's petition be granted and that he be reinstated to his former position of Deputy Sheriff together with back pay and benefits.

10. DISCUSSION

It is accepted as true that Deputy Guerrero was experiencing serious emotional problems arising from his dysfunctional marriage. However, this cannot and does not serve as an excuse for repeated violations of department policy and for making misleading statements during the course of an official internal investigation. Mr. Guerrero was employed in a critical position at the Twin Towers Central Correctional Facility and any distraction from his duties caused by his personal marital problems could have resulted in serious harm to himself and fellow employees. It is also noted that Mr. Guerrero acknowledged during the hearing that he had available to him departmental counselling services but failed to take advantage of that service because he was too embarrassed to do so.

By his own admission, Mr. Guerrero lied to Lieutenant Bobo, his supervisor, when asked if he was present and witnessed the assault on inmate [redacted] During the course of his interviews by Internal Affairs he changed his answers to questions that were put to him, omitted important facts and improbably failed to recollect important aspects of the June 29, 2011, incident. Sergeant [redacted] unequivocally denied ordering him to stay out of it and to not prepare a report contrary to Guerrero's insistence that he was directed to do so by [redacted] Nonetheless, Guerrero failed to mention Sergeant [redacted] purported order to keep out of it during his early interview with Internal Affairs. His testimony is also inconsistent with being ordered by [redacted] to prepare the Inmate Injury Report. If [redacted] truly told him to stay out of it then one might wonder why would he have him prepare a report that would, even remotely, bring him into the incident. In light of Guerrero's consistent lack of credibility throughout this matter, Sergeant [redacted] has the advantage of plausibility.

While we take Mr. Guerrero's word that he has matured in his understanding of his responsibilities as a deputy sheriff, he has, by his own admission, lied to his supervisor and made omissions of material facts during his Internal Affairs interviews. In so doing he has made himself a casualty of *Brady*[1]. These are very real obstacles to his

criminal matters. Furthermore, by admitting to having lied to his supervisor during his testimony in court he has not only damaged his credibility as a witness but he has also tarnished the reputation of the department he has served.

By the time of this incident, Mr. Guerrero had already been employed by the department for three years and had previously been employed by the County Police Department. He was a seasoned law enforcement officer and should have known better.

With respect to the issue raised by the Appellant that the statute of limitations as set forth in Government Code § 3304 precludes the prosecution of this matter, it is noted that the wrongful conduct that was alleged against the Appellant was not discovered by the department until the trial of Mr. [redacted] and was, therefore, tolled during the pending criminal proceedings. Furthermore, the fact that the proceedings involved another subject [redacted], does not remove Mr. Guerrero from the tolling provisions. Thus, there was no violation of the cited code section.

The Appellant also argues that the department violated its policy of progressive discipline by the imposition of the most extreme penalty of a discharge when a lesser penalty, such as a suspension, could have been employed. It is true that the countywide policy of progressive discipline is applicable to the Sheriff's Department as well as to other departments. However, some acts of misconduct are so egregious that they fall outside the ambit of this policy. Such acts include dishonesty, making false statements and intentional omissions of material facts during the course of one's official duties. Those acts are never tolerated by a law enforcement agency and the policy of progressive discipline is inapplicable in such instances.

Having heard the testimony of the witnesses including that of Mr. Guerrero, I have concluded the following:

- The allegations are true.
- The discharge is appropriate.
- The department has met its burden of proof by a preponderance of the evidence.

II. FINDINGS OF FACT

The evidence, both oral and documentary, having been considered along with the contentions of the parties, I make the following findings of fact:

1. On June 11, 2012, the Sheriff's Department initiated an Internal Affairs investigation into a use of force incident upon an inmate occurring on June 29, 2011, at the Twin Towers Correctional Facility.

2. At all times indicated, Alex Guerrero was employed as a Deputy Sheriff by the Los Angeles County Sheriff's Department and assigned to the Twin Towers Correctional Facility.

3. On June 29, 2011, Deputy Guerrero was a witness to the use of force incident against inmate [redacted] and failed to take a report of the incident as required by policy.

4. Deputy Guerrero was untruthful when he told Lieutenant Bobo that he did not witness the incident.

5. That based upon his own admission and corroborated by the documentary evidence, Deputy Guerrero appeared in the Los Angeles Superior Court and testified to lying to a supervisor (Lieutenant Bobo) about not being present during a use of force incident.

6. Deputy Guerrero was untruthful when he told investigators that he had been ordered by Sergeant [redacted] to "stay out of it and not prepare a report."

7. The evidence <u>did not</u> support a finding that Deputy Guerrero made false statements to Sergeant [redacted] by stating that he was not present during a use of force incident.

8. The evidence <u>did not</u> support a finding that Deputy Guerrero made false statements to Sergeant [redacted] by stating that he had been escorting inmates back to their assigned housing locations during a use of force incident.

9. Deputy Guerrero had made omissions of fact when interviewed by investigators on October 19, 2017.

10. Deputy Guerrero had conspired with Deputy [redacted] and Custody Assistant [redacted] that he would remove himself from the incident.

11. Deputy Guerrero was served with a Letter of Intent to Discharge on April 19, 2017.

12. Alex Guerrero participated in a *Skelly* hearing presided over by Stephen B. Johnson, Chief, Custody Services Division, during which time he was offered an opportunity to present evidence in opposition to, or in mitigation of, the charges against him.

13. Chief Johnson concluded that the Appellant's responses did not serve to mitigate the discipline.

14. On May 26, 2017, a Letter of Discharge was sent by certified mail to Mr. Guerrero advising him of his discharge effective at the close of business on May 24, 2017.

15. Mr. Guerrero filed a timely appeal of his discharge with the Civil Service Commission.

16. The hearing on the appeal was conducted before your hearing officer on September 4, 2018 and September 5, 2018.

12. CONCLUSIONS OF LAW

1. The allegation that the Appellant was in violation of the Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, is found to be true.

2. The allegation that the Appellant was in violation of the Manual of Policy and Procedures Section 3-10/100.00, Use of Force Reporting, is found to be true.

3. The allegation that the Appellant was in violation of the Manual of Policy and Procedures Section 3-01/040.70, False Statements, is found to be true.

4. The allegation that the Appellant was in violation of the Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, is found to be true.

5. The allegation that the Appellant was in violation of the Manual of Policy and Procedures Section 3-01/030.05, General Behavior, is found to be true.

6. The allegation that the Appellant was in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty, is found to be true.

13. RECOMMENDATION

Having found that the allegations contained in the department's Letter of Discharge of May 28, 2017, are all true for the reasons previously set forth, it is respectfully recommended that your honorable body adopt the findings of your hearing officer and hold that the discharge of the Appellant from his position of Deputy Sheriff with the Los Angeles County Sheriff's Department is appropriate; is not an abuse of discretion and should be sustained

Dated: January 7, 2019

Respectfully Submitted,

Jerry Ellner, Hearing Officer



OFFICE OF THE SHERIFF



COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM MCDONNELL, SHERIFF

May 26, 2017

Deputy Alexander Guerrero, #[redacted] Date of Department Hire 05/12/2008
[redacted]

Dear Deputy Guerrero:

On April 19, 2017, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2323173. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on May 24, 2017.

An investigation under File Number IAB 2323173, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. [redacted] and/or 3-01/040.70, False Statements; [redacted] on or about June 29, 2011, while on-duty, you provided false information to a supervisor, and in a use of force/supplemental report, and/or failed to perform to standards established for your position, as evidenced by but not limited to:

a. making false statements to Sergeant [redacted] by stating that you were not present during a use of force incident; and/or,

b. making false statements to Sergeant [redacted] by stating that you had been escorting inmates back to their assigned housing locations during a use of force incident, and/or words to that effect; and/or,

c. making false statements to the watch commander, former Lieutenant David Bobo, by stating, "I wasn't there;" when asked if you witnessed a use of force incident; and/or,

d. discussing the incident with former Deputy [redacted] and Custody Assistant [redacted] and collectively agreeing that you would remove yourself from the incident; and/or,

e. failing to verbally report witnessed force by former Deputy [redacted] and Custody Assistant [redacted] against Inmate [redacted]; and/or,

f. failing to properly report witnessed force by former Deputy [redacted] and Custody Assistant [redacted] against Inmate [redacted] in a supplementary report.

2. That in violation of the Manual of Policy and Procedures Sections 3-01/040.70, False Statements; and/or [redacted] on or about October 10, 2012, and October 25, 2012, you omitted information, provided false or misleading statements during an Internal Criminal Investigation and/or obstructed an on-going criminal investigation, as evidenced by but not limited to:

a. making false statements, on October 10, 2012, that you were in the transfer center booth when you heard a noise, looked out the booth window, and witnessed former Deputy [redacted] "taking Inmate

[redacted] to the ground," and/or words to that effect; and/or,

b. providing conflicting statements during the ICIB interviews regarding your observations of Deputy [redacted] use of force on Inmate [redacted]; and,

c. making false statements, on October 25, 2012, that you reported the force you witnessed to Sergeant [redacted] who said "you weren't there. You didn't see anything, you're out of this;" and/or words to that effect.

[redacted] [redacted]



4. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations, on or about March 7, 2017, you made false statements during an Internal Affairs Investigation, as evidenced by but not limited to:

a. stating "Yes Sir," when you were asked " did anyone tell you not to write a supplemental report on your actions of what you witnessed;" and/or,

b. stating, "Sergeant [redacted] when asked who instructed you to not document a witnessed force incident; and/or,

c. stating Sergeant [redacted] said "stay out and let [redacted] and [redacted] handle the paper," when witnessed force was reported to Sergeant [redacted].

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 500 W. Temple Street, Room 522, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

STEPHEN B. JOHNSON, CHIEF
CUSTODY SERVICES DIVISION – SPECIALIZED PROGRAMS

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

SBJ:KM:JSW:jp

cc: Advocacy Unit
Stephen B. Johnson, Chief, Custody Services Division – Specialized Programs
Laura E. Lecrivain, Captain, Twin Towers Correctional Facility
Internal Affairs Bureau
Kimberly L. Unland, Captain, Personnel Administration
Doreen Garcia, Pay and Leave Management

(Attachment)

CIVIL SERVICE RULES

"4.02 Petition for Hearing

Such petition shall be in writing, signed by the petitioner, or the petitioner's representative, and shall give the signer's mailing address and specify the ruling or action appealed and in plain language and in detail sufficient facts and reasons upon which the petitioner's case is based."

"4.05 Time Within Which Petition Must be Filed

A. Unless otherwise provided in these Rules, a petition for hearing before the commission must be filed within the following time limits:

   1. In a discharge, reduction or suspension over five days within fifteen (15) business days after service of letter of discharge, reduction or suspension of over five days;

   2. In all other matters except as provided in Rule 6.07, not later than ten (10) business days after the ruling or order complained of.

B. Commission may extend the time limits for filing a petition only after consideration of a showing of good cause for the delay which has been submitted in writing. If the commission extends the time limits, the commission shall specify the facts which the commission deems to constitute good cause. The filing of a departmental grievance or an appeal in another jurisdiction, such as the Employee Relations Commission, shall not constitute good cause for extending the time limits for filing a petition with the commission."

(Attachment)

CIVIL SERVICE RULES

"18.02 Discharge or Reduction

A. A permanent employee may be discharged from County service or reduced in rank or compensation after appointment or promotion is complete, and after completion of the employee's first probationary period (except as provided in Rule 18.06). Before such discharge or reduction shall become effective, the employee shall receive a written notice from the appointing power of intent to invoke discharge or reduction, and specific grounds and particular facts therefor. The employee shall then be allowed a reasonable time, not to exceed ten (10) days, to respond orally or in writing to the appointing power before the discharge or reduction shall become effective.

B. When a permanent employee is discharged or reduced, the employee shall be allowed fifteen (15) business days from date of service of said notice of discharge or reduction in which to reply thereto in writing and request a hearing before the Commission. Notice of the time allowed for answer and for requesting a hearing before the Commission shall be stated in the notice of discharge or reduction. The appointing power shall submit to the Commission evidence showing that the employee has been served with the notice of discharge or reduction either personally or by certified or registered mail addressed to the employee's last known address, and the date of such service.

C. The Commission may not consider any information or charges made by the appointing power unless they are contained in the letter of discharge or reduction, nor any made by the employee unless the employee has previously provided them to the appointing power for consideration, unless such information or charges were not then known and could not reasonably have been expected to be known by the appointing power or the employee. The Commission shall determine whether or not the discharge or reduction is justified."

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3-01/030.10 OBEDIENCE TO LAWS, REGULATIONS, AND ORDERS

a) Members shall not willfully violate any federal statute, state law or local ordinance,

b) Members shall conform to and abide by the following:

- Charter of Los Angeles County,
- Los Angeles County Code,
- Rules of the Department of Human Resources,

c) Members shall obey and properly execute all lawful orders issued by any supervisor of higher rank or classification or who is officially acting in such capacity,

d) When assigned to duty with another member of the Department, an employee shall be subject to disciplinary action for any violation by the other member of any provision of this chapter unless the employee was unaware of the violation or unless the employee, if the situation permits safe and prudent action, attempts in good faith to prevent the violation and, at the earliest reasonable time, reports the violation to his supervisor,

e) Members, who violate any rules, regulations, or policies of the Department or the County, shall be subject to disciplinary action. The commission or omission of any other act contrary to good order and discipline shall also be the subject of disciplinary action,

f) Members, who are arrested or detained for any offense, or named as a suspect, other than an infraction under the Vehicle Code, shall immediately notify their immediate supervisor or Watch Commander of the facts of the arrest or detention or allegation.

After business hours, if the member is unable to contact their immediate supervisor or Watch Commander at the Unit of Assignment, the member shall contact Sheriff's Headquarters Bureau and request immediate notification to their Unit Commander. The member shall provide details of the arrest or detention to Sheriff's Headquarters Bureau, including alleged charge(s), location, police agency jurisdiction, and return phone number where the member can be reached, for relay to the Unit Commander. The Sheriff's Headquarters Bureau member receiving notification shall immediately notify the employee's Unit Commander.

The Unit Commander shall immediately notify Internal Affairs Bureau. The employee's Unit Commander shall immediately respond to the member's location if the member is arrested and taken into custody.

According to the nature of the offense and in conformance with the rules of the Department of Human Resources, disciplinary action may result and may include, but is not limited to, the following:

- A reprimand (written),
- Suspension without pay,
- Reduction in rank,
- Dismissal from the Department.

NOTE: For purposes of this section, any reference to "members" shall include any member of the Department, both sworn and professional staff.